D.B. CIVIL SPECIAL APPEAL NO.505/2005
(Pukhraj V/s The State of Rajasthan and ors.)

5.1.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P.VYAS

Mr.P.S. Rathore, for the applicant/s.

...

This special appeal is against the order passed by the learned Single Judge on 23.8.2005 dismissing the writ petition filed by the petitioner inter alia on the ;ground that the petitioner had already availed the alternative remedy by way of filing civil suit.

The learned counsel for the appellant pointed out that before filing the writ petition, the petitioner had already withdrawn the suit and therefore, the ground on which this writ petition has been rejected did not exist and all the facts including the order passed on withdrawal application was placed on record.

While the aforesaid contention is well founded, but a perusal of the writ petition shows that the petitioner's grievance related to the order passed on 16.12.1976. The suit itself was filed somewhere in the year 2001, after 25 years of the date when the impugned order was passed

and the writ petition has been filed in the year 2005 after almost 30 years of the impugned order. In these circumstances, the petition otherwise suffers from serious laches which have not been explained in any manner. The writ petition, therefore, otherwise deserves to be dismissed as it was not a fit case for exercising extraordinary jurisdiction.

Therefore, the appeal fails and is hereby dismissed.

(R.P.VYAS)J (RAJESH BALIA)J.

SS/-